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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
BAYAT, BRADLEY B	

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/926,686	HUBER ET AL.	
	Examiner	Art Unit	
	Bradley Bayat	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12/29/2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 December 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

Applicant has amended claims 1-22, added new claims 23, 24 and submitted replacement-drawing sheets for Figures 1 and 2 in the amendment filed on 29 December 2004. Thus, claims 1-24 are active and pending.

Response to Arguments

Applicant's arguments filed December 29, 2004 have been fully considered but they are not persuasive.

Applicant contends that Downs (US 6,226,618 B1) fails to teach or suggest "transmitting data on a time at which an ordered media object is available (response pages 12-13)." Furthermore, applicant states that in Downs a "terminal does not automatically contact the center at the stored time at which an ordered media object is available," but rather teaches that content compression is used to reduce file size of the content and transmission time and teaches that time information is logged, wherein logged time represents the date and time of the request and purchase of the media object (response page 13).

The examiner respectfully disagrees.

Applicant's argument with respect to transmission of data at a time when a media object is available is puzzling and counter-intuitive. It goes without saying that if the media object is unavailable, it isn't there to be transmitted. If a function of "availability" is for example a valid license, then Downs discloses transmission of media objects wherein various parameters for control, use and enforcement of the media object are automatically implemented, i.e., time

interval of the term of the license are checked to be valid in order to provide or make available the media object (column 6, line 65-column 7, line 55).

Moreover, Downs discloses an automatic metadata acquisition tool[1] that can utilize any data field to configure and automatically provide available media objects to a user (column 58, lines 1-60; figures 12, 13 and associated text). The time when a media object becomes available could be configured for automatic delivery to a user, according to Downs.

Applicant further argues the above position with regards to the secondary reference (response pages 13-14), however, the examiner combined Hannula (US 6,366,893 B2) merely to illustrate transmission of media objects between a mobile device and a service gateway in the art.

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[1] The Automatic Metadata Acquisition Tool provides a user the ability to implement the Automatic Metadata Acquisition Process 803 described above. The Automatic Metadata Acquisition Tool is used to access the Database 160 of the Content Provider(s) 101 and to retrieve as much data as possible without operator assistance. Configuration methods are available to automate this process. The Content Provider(s) 101 can tailor the default metadata template to identify the types of data this Content Provider(s) 101 wants to provide to End-User(s) (e.g., composer, producer, sidemen, track length) and the types of promotional data the Content Provider(s) 101 provides to the Electronic Digital Content Store(s) 103 (e.g., for a music example, sample clips by this artist, a history of this artist, the list of albums on which this recording appears, genres associated with this artist). The default metadata template includes data fields which are required by the End-User Device(s) 109, data fields which can be optionally provided to the End-User Device(s) 109 and a sample set of data fields, targeted to the Electronic Digital Content Store(s) 103, that promote the artist, album, and/or single.

To extract the template data fields from the Database 160 of the Content Provider(s) 101 the Automatic Metadata Acquisition Tool uses a table that maps the type of data (e.g., composer, producer, a biography of the artist) to the location within the database where the data can be found. Each of the Content Providers 101 help specify that mapping table for their environment.

The Automatic Metadata Acquisition Tool uses a metadata template of the Content Provider(s) 101 and mapping table to **acquire whatever data is available** (emphasis added) from the Databases 160 of the Content Provider(s) 101. The status of each product is updated with the result of the Automatic Metadata Acquisition Process 803. A product which is missing any required data is queued for Manual Metadata Entry Process 804, otherwise it is available for packing into a Metadata SC(s) 620.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, applicant indicates a step of "transmitting data on a time at which an ordered media object is available," then "wherein the time is determined by the center," followed by "automatically contacting, by the communications terminal the center at the stored time." From the language used in the claim, it appears that "the time" applicant is referring to is two distinct units. Otherwise, if applicant's reference to all three instances to "time" is the same, the applicant must particularly point out and distinctly claim the subject matter which applicant regards as the invention. Due to the dependency of claims 2-12 and 23 on independent claim 1, the above referenced claims are rejected under 35 U.S.C. 112, second paragraph.

Claim Rejections - 35 USC § 103

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al. (hereinafter Downs), U.S. Patent 6,226,618 B1 in view of Hannula et al. (hereinafter Hannula), U.S. Patent 6,366,893 B2.

As per claim 1, Downs discloses a method for ordering and transmitting of digital objects comprising: transmitting an object order for digital media objects that comprises at least one object identification (figure 1b, 1d, 2 and associated text), transmitting data on a time at which an

ordered media object is available by the center to the communications terminal, wherein the time is determined by the center and is stored in the communications terminal (column 40, lines 53-67; column 46, lines 10-61)), automatically contacting, by the communications terminal the center at the stored time (column 58, lines 1-column 59, line 48), transmitting a media object assigned to the object identification by the center via a radio network to the communications terminal where it is stored in a memory and playing back, by a media playback module of the communications terminal, a media content contained in the stored media object (figures 1A-D; columns 6-8; figures 12, 13 and associated text). Although Downs does describe wireless and mobile devices used in media object transactions, it does not explicitly disclose transfer of digital media via a mobile communications terminal. Hannula, however, teaches a system, method and apparatus of performing electronic payment transactions between a mobile terminal and a gateway service center to purchase and deliver digital media objects to a user (figures 2-6 and associated text). It would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize the method of transfer and purchase of digital data via a mobile device to carryout and augment the electronic content delivery system described in Downs, as more users in the digital transfer technology are utilizing mobile phones and devices for various other modalities foreseeable in the art.

As per claim 2, Downs further discloses the method of claim 1 wherein media content is encrypted utilizing a first key and decryption means for playback of the media objects (figure 1D and associated text).

As per claim 3, Downs further discloses the method of claim 2, wherein media objects stored in a communications terminal are selected and transmitted to another communication terminal, while the media content remains encrypted (figures 3-4 and associated text).

As per claim 4, Downs further discloses one of the claims 2 or 3, wherein the first key assigned to the media content is transmitted encrypted by means of a public second key to the respective communications terminal and is decrypted by means of a private third key (figure 6 and associated text).

As per claim 5, Downs further discloses the method of claim 4, wherein data about conditions of use for the media object are also sent to the communications terminal separately or together with the first key assigned to this media object (figure 6 and associated text).

As per claim 6, Downs further discloses the method of claims 4 or 5, wherein for decryption of the media content of the media object, the decrypted first key assigned to this media object is transmitted in a protected way to a decryption module of the communications terminal (columns 12-14).

As per claim 7, Downs further discloses the method of claims 1 to 6, wherein the media objects contain in each case indications about the center where the respective media object can be obtained (figure 1B and associated text).

As per claim 8, Downs further discloses the method of claims 2 to 7, wherein the media objects contains in each case indications about a key server from which the encrypted first key can be obtained (figures 2-5 and associated text).

As per claim 9, Downs further discloses the method of claim 8, wherein a key obtaining module of the respective communications terminal automatically requests, receives and stores the encrypted first key in each case from the key server (figure 12 and associated text).

As per claim 10, Downs further discloses the method of claims 1 to 9, wherein the media objects contain in each case indications concerning the media content of the media object, for example price information, title indications, playing duration or a sample playback (columns 48-49).

As per claim 11, Downs further discloses the method of claims 1 to 10, wherein as payment for the playback of the media content of the media object a monetary amount assigned to this media object is debited against a prepaid monetary amount stored on a chip card of the respective communications terminal (columns 75-76).

As per claim 12, Downs further discloses the method of claims 1 to 11, wherein the number of playbacks of said media content of the media object is counted in the respective communication terminal and this number is transmitted to a license server (columns 59-60).

As per claim 23, Downs further discloses the method according to claim 1, wherein the time is determined by the center with regards to optimal usage of resources used for a transmission of ordered media objects (column 10, lines 15-18).

Claims 13-22 and 24 are directed to a device or terminal of the above claimed method and are therefore rejected on the same grounds (see above).

As the applicant has indicated in the response "since all the changes to the claims are only formal," the examiner has not re-typed every change made in the amended claims. However, the breath and scope of the claims have been addressed in the rejection and response to arguments with all underlying significant changes noted.

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley Bayat whose telephone number is 703-305-8548. The examiner can normally be reached on Tuesday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bbb

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